



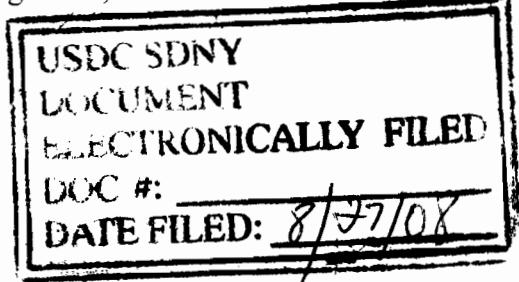
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# MEMO ENDORSED

August 25, 2008



BY HAND DELIVERY

Honorable Theodore H. Katz  
United States Magistrate Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: Dimas Cuadrado v. The Department of Correction, et. al.,  
08 Civ. 3026 (PAC) (THK)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department handling the defense of the above-referenced matter on behalf of defendant New York City Department of Correction. I write further to this office's June 24, 2008 letter to the Court in which we requested that defendants New York City Department of Correction and Officer Serrano's time to answer or otherwise respond to the complaint be enlargement until August 25, 2008. This office initially requested an enlargement of time to afford us the opportunity to investigate the allegations in the complaint, resolve representation issues, investigate service on the individuals identified as defendants in the caption of the complaint, and if appropriate, to answer or otherwise respond to the complaint. On June 25, 2008 the Court granted this office's request.

This office only recently determined that pursuant to General Municipal Law Section 50-k, we can not represent the only individually-named defendant in this action, Correction Officer Serrano. As such, while we do not presently represent Officer Serrano, this office respectfully requests that the Court, *sua sponte*, grant him a further enlargement of time, until September 25, 2008, to secure legal representation and interpose a response to the complaint, if appropriate.

Moreover, in addition to Correction Officer Serrano, plaintiff named the New York City Department of Correction as a defendant. However, it is well settled law that the New

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York City Department of Correction is not a suable entity. Campbell v. Dep't of Correction, 95 Civ. 3242, 1996 U.S. Dist. LEXIS 2021, at \*2 (S.D.N.Y Feb. 26, 1996) (DOC not a suable entity); Jolly v. N.Y.C. Dep't of Correction, 89 Civ. 4520, 1989 U.S. Dist. LEXIS 14852 (S.D.N.Y. Dec. 13, 1989) (DOC not a suable entity). Therefore, this office will not interpose an answer on behalf of the New York City Department of Correction.

Accordingly, this office respectfully requests that Officer Serrano's time to answer or otherwise respond to the complaint be enlarged thirty (30) days August 25, 2008 to and including September 25, 2008. In addition, as there is presently no proper party to this action whom this office might represent, this office will take no further action in this matter unless instructed otherwise by the Court.

I thank Your Honor for considering the within request.

Respectfully submitted,

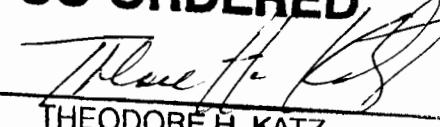


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cc: Dimas Cuadrado (241-07-06215)  
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(By First Class Mail)

## MEMO ENDORSED

*Defendant Serrano's response to the  
complaint shall be filed by September 25, 2008.*  
*Plaintiff is hereby advised that Defendant*  
*Department of Correction is not a suable*  
*entity. Accordingly, unless Plaintiff submits*  
*legal authority to the contrary, by September*  
*15, 2008, the Department of Correction will be*  
*dismissed as a Defendant. SO ORDERED*

*2*  
8/27/08   
THEODORE H. KATZ  
UNITED STATES MAGISTRATE JUDGE